IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

CRP.No. 995 of 2006()

AGAINST THE ORDER DATED 31/10/2006 IN EP.543/2004 IN OS 1773/01 of PRL.M.C.,TRIVANDRUM

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REVN. PETITIONER: JUDGMENT DEBTORS:

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1. PATTATHUVILA TIMBER DEPOT,
PONGUMMOODU MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM, REPRESENTED BY ITS
MANAGING PARTNER, MANOJ BHASKER.

2. MANOJ BHASKAR, S/O.BHASKARAN,
MANAGING PARTNER, M/S. PATTATHUVILA TIMBER DEPOT,
PONGUMMOODU, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.WILSON URMESE
SRI.M.C.ANTONY

RESPONDENTS: DECREE HOLDER:

D.K. SUDHEER, KAMALALAYAM,
CHITHARA, KOLLAM.

BY //

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO. 3528/06 IN CRP 995/06

DISMISSED

7/12/06/2006

SD/-M.SASIDHARAN NAMBIAR,JUDGE.

//True copy//

PA to Judge.

M.SASIDHARAN NAMBIAR,J.

C.R.P .NO. 995 OF 2006

Dated 7th December 2006

O R D E R

Petitioners are judgment debtors. First petitioner is a firm and second respondent the Managing Partner. Petitioners are challenging the order of arrest passed by the executing court.

2. Learned counsel appearing petitioners was heard. Argument of learned counsel appearing for petitioners is that petitioners are prepared to pay decree debt and failure to pay the amount was not willful and only because of other liabilities and therefore an opportunity may be granted to pay the debt.

3. On hearing learned counsel appearing for petitioners, I do not find any illegality in the order passed by executing court. Executing court had earlier found that second petitioner has the means to pay decree debt. Thereafter on the request of petitioners they were directed to pay the balance amount in instalments. Though some instalments were

paid, subsequently they committed default. In such circumstances, executing court directed arrest of petitioners. It cannot be said that said order is illegal, in the circumstances of the case. But on the submission of learned counsel appearing for petitioners that petitioners would pay entire decree debt without further delay, executing court is directed to keep the order of arrest in abeyance for one month. If the petitioners deposit half of the decree debt due within one month, executing court has to grant time for one more month to pay balance decree debt.

Revision petition is disposed of accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.